

Article 139 Claims... A Route to Recovery

by CPT Erik Lapin

If you feel a member of the Armed Forces has willfully damaged or wrongfully taken your property, you may be able to recover for your damage by filing an Article 139 claim. An Article 139 claim is an administrative mechanism for assessing and paying restitution to the victim of certain types of criminal offenses committed by active duty service members. An Article 139 claim can be submitted by a civilian, service member, business entity, state or local government, or charity.

An Article 139 claim may be filed for property that is willfully damaged (*e.g.*, vandalism) or wrongfully taken (*e.g.*, theft). Article 139 does not apply to claims for personal injury, accidental property damage resulting from negligence, or contract disputes. Direct damage is payable under Article 139; however, indirect damage is not payable. The cost to repair the damage to your vandalized car is an example of direct damage. An example of indirect damage is the cost of a rental car while your car is being repaired.

An Article 139 claim must be written, must be signed by the claimant, and must seek a definite sum of money in U.S. dollars. Include police reports, repair estimates, purchase receipts, and any other relevant documentation. The complaint must be submitted within 90 days of the incident that gave rise to the claim or there must be good cause for the delay.

The person making the claim must file it with the Special Court-Martial Convening Authority having jurisdiction over the alleged offender. However, any claims office can process a claim and forward it to the appropriate Special Court-Martial Convening Authority. Once an Article 139 claim has been filed, the Special Court-Martial Convening Authority will appoint an officer to conduct a formal investigation. Within 10 working days of appointment, the investigating officer is expected to complete an investigation into the claim. If the investigating officer determines that it is "more likely than not" (*i.e.*, there is a preponderance of the evidence) that the claim is valid, then the Special Court-Martial Convening Authority can order up to \$5,000 in compensation to be approved immediately and can recommend approval of higher levels of compensation to the U.S. Army Claims Service. This money is then collected directly from the wrongdoer's paycheck and paid to the victim.

Although Article 139 does not provide for a right of appeal, either the claimant or a Soldier whose pay has been assessed may request the approval authority to reconsider the action. Both the claimant and respondent have 10 working days to request reconsideration. The request for reconsideration must be in writing and clearly state the factual or legal basis for reconsideration.

If you have further questions about how to file an Article 139 claim, contact the Kaiserslautern Legal Services Center Claims Office at DSN: 483-8304 or Civilian 0631-411-8304, or stop in at Building 3210 on Kleber Kaserne.

